

REMARKS

Applicant affirms the election to prosecute the invention associated with claims 1 – 10. Claim 11 is withdrawn from further consideration as being drawn to a non-elected invention.

In the pending Office Action, the Examiner rejects claims 5 and 6 under 35 U.S.C. 112 as failing to comply with the enablement requirement. Regarding claim 5, the Examiner states that while the specification does address a flange member engaging a base member, the specification does not address the structure or the functionality of the structure of a base having a flange member and engaging the slide member. Applicant has amended the specification to more fully explain the structure and functionality of a base with a flange member engaging the slide member.

Regarding claim 6, the Examiner states that the specification is not clear as to how to assemble the resulting structure encompassed by claim 6. Applicant has amended the specification to more fully explain the assembly of the structure described in claim 6.

In the pending action, the Examiner rejects claims 1 – 4 under 35 U.S.C. 102(b) as being anticipated by Gabay, U.S. Patent No. 4,770,635. Applicant respectfully submits that the present invention is distinguishable from the Gabay reference. Specifically, Gabay reference is directed to a device that includes a case. In column 4, lines 25 – 27, the Gabay reference states that “... Fig. 1 is a top view of the present invention showing a rectangular-shaped case 1, which may be a molded plastic encasement.” Further, the Gabay device is designed to work with a sliding panel, a tinted lens and a magnifying lens. Applicant’s invention does not require a case or encasement. Applicant’s base portion, when constructed by initially folding sheet of paper, can be open on three sides. Additionally, Fig. 2 of the Gabay reference shows a slot 11 through which the sliding panel is inserted and moved as described in column 4 at lines 58 – 59. Column 5, lines 8 – 10 of the Gabay reference states, “The sides of sliding panel 2 engage preformed grooves 14a, 14b in the longitudinal sides 8a, 8b after passing through

slot 11. The slot 11 shown in Fig. 2 engages the sliding panel 2 along both longitudinal sides in preformed grooves. The Gabay device needs the encasement and longitudinal grooves to engage the slide portion to operate as designed. As mentioned above, the Gabay device is designed to work with a sliding panel, a tinted lens and a magnifying lens. Without encasement, the panel and both of the lenses may fall out of the Gabay device from the open sides. The user would be required to collect all the pieces and reassemble the device. Without grooves to engage the sliding panel and each of the lenses of the Gabay device, the three pieces would rest on top of one another, and the user would have difficulty operating one sliding panel or lens independently of the other two. Applicant's invention as described in claims 1 – 4 does not describe a base portion that encases the slide portion on all sides, or the use of grooves in the base portion to engage both sides of the slide member. The base portion may be open on its sides. The slide member may be unattached to the base portion during use of Applicant's device. If the slide member falls out of Applicant's device because of an open side, the user need retrieve only one piece to continue use of Applicant's device. Thus Applicant's invention is distinguished from the Gabay device because Applicant's base member does not need to encase the slide member on all four sides, and it does not engage the slide member in grooves along both longitudinal sides of the slide member.

Regarding claim 2, the Examiner states the base portion comprising a sheet-like member folded over on to itself is disclosed in Fig. 2 where the rectangular base 1 is considered to be sheet-like and folded over as it is formed of a sheet material and folded along respective edges and sides. Applicant respectfully submits that nothing in the specification indicates that the base 1 of Fig. 2 can be considered sheet-like and folded over. In fact, at column 4, lines 25 – 27, the Gabay reference teaches away from the idea of a foldable base, and indicates the case may be a “molded plastic encasement.”

Applicant believes that all the claims of this application contain limitations which patentably distinguish them over the cited prior art and their allowance is hereby respectfully requested.

If the Examiner has any comments or suggestions for placing the present claims in better condition for allowance, Applicant's undersigned attorney would appreciate a telephone call at the number indicated below.

Authorization is hereby provided to charge any underpayment of fees or any additional fees due with respect hereto to our Deposit Account No. 08-1280.

Respectfully submitted,

HAVERSTOCK, GARRETT & ROBERTS LLP

A handwritten signature in cursive script, reading "Mary T. Edwards", is written over a horizontal line.

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